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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/718,859

11/21/2003

Pascal Jordil

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12/02/2004

PEARNE & GORDON LLP

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CLEVELAND, OH 44114-3108

EXAMINER

GUADALUPE, YARITZA

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,859

Applicant(s)

JORDIL ET AL.

Examiner

Yaritza Guadalupe McCall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 12, 13, 17-19 and 28-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-39, 41 and 42 is/are allowed.
- 6) ☒ Claim(s) 1, 12, 17, 28, 30-32, 34, 35 and 40 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 13, 18, 19, 29, 33 and 43-45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to Amendment filed September 3, 2004

Terminal Disclaimer

1. The terminal disclaimer filed on September 3, 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Application Number 09/996,115, now Patent Number 6,802,133, has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an

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international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 12, 17 and 40 are rejected under 35 U.S.C. 102 (b) as being anticipated by Glasson (US 5,781,450).

Glasson discloses a coordinate measuring machine comprising a probe tip (22) designed for being brought into contact with the piece (16) to be measured, a displacement mechanism of said probe tip for movement in the three dimensional axes (x, y, z) as shown in Figure 1.

Glasson further discloses a measuring and displaying system (14, 31, 38) that allows the position of said probe tip to be determined and displayed, said measuring and displaying system being able to function according to several distinct modes (See Column 6, lines 26 – 39), wherein at least one of said measure modes can be selected by acting on the position of the probe tip without any other handling operating being necessary. Glasson discloses said measure mode being selected by pressing the probe tip against the piece to be measured during a time interval greater than a predetermined value, since coordinates from the direction of movement of the probe will determine the feature type, which implies that some time interval is present so as to obtain the measurements from / with the probe.

Glasson discloses an apparatus comprising a command program for measuring and displaying in a dimension – measuring column, said program enabling the position of the probe tip of said measuring column to be determined and displayed in computer monitor (31), said program being capable of making said measuring and displaying system function according to several distinct modes, wherein said program enables another of said measure modes to be selected by acting on the position of the probe tip, said program being performed by a computer (14).

With respect to claims 1, 12, 17 and 40 : The method enabling a command to switch the measure mode to be entered in a dimension – measuring column provided with a probe tip wherein said command to switch the measure mode is entered by only making use of the position of said probe tip (See Column 6, lines 26 – 39), wherein said command to switch the measure mode is entered by pressing the probe tip against a piece to be measured during a time interval greater than a predetermined value, and wherein a measurement of the probing point is effected when the probe tip is pressed against said piece to be measured during a time interval shorter than said predetermined value can be made by the regular operation of the apparatus, and wherein the measurement mode is limited to only a single dimension will be met using the device disclosed by Glasson.

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4. Claims 30 – 32 and 34 – 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Kimura et al. (US 6,401,352).

Kimura et al. discloses a linear measuring machine comprising a probe tip (13) designed for being brought into contact with the piece to be measured, a displacement mechanism of said probe tip for movement in one dimensional axis (z) as shown in Figure 1. Kimura et al. further discloses a measuring and displaying system (16, 17, 18) that allows the position of said probe tip to be determined and displayed, said measuring and displaying system being able to function according to several distinct modes, wherein at least one of said measure modes can be selected by acting on the position of the probe tip by means of deliberate handling operation of a height – command crank (43), thus resulting in modifying the measuring accuracy and / or resolution. Kimura et al. discloses said measure mode being selected by pressing the probe tip against the piece to be measured during a time interval greater than a predetermined value, since coordinates from the direction of movement of the probe will determine the feature type, which implies that some time interval is present so as to obtain the measurements from / with the probe.

The method as stated in claims 30 – 32 including the steps of enabling a command to switch a measurement mode by means of deliberate handling operations of a height command crank, and further resulting in modifying the measuring accuracy and/or resolution, and wherein a status of the display of said dimension-measuring column is modified following said command to switch the measure mode so as to indicate the status of a pressing force of said probe tip

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against a piece to be measured will be met by the regular operation of the apparatus disclosed by Kimura et al.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 28 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Glasson (US 5,781,450) in view of Tsukamoto et al. (US 5,991,706).

Glasson discloses a coordinate measuring machine as stated in paragraph 5 above.

Glasson does not disclose the loudspeaker as stated in claim 28.

Regarding claim 28 : Tsukamoto et al. discloses a measuring apparatus comprising a control device (30) having an operation panel (8) for selecting a desired operational measuring mode (See Column 6, lines 30 – 41) and also having a loudspeaker / sound generator (14) for signaling. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a loudspeaker / sound generator as taught by Tsukamoto

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et al. to the apparatus disclosed by Glasson in order to provide a safety mechanism which produces a loud indication if a change has occurred in the process that will alert the user at long distances.

Allowable Subject Matter

7. Claims 2 – 3, 13, 18 – 19, 29, 33, 43, 44, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 36 – 39, 41 and 42 are allowed.

Response to Arguments

9. Applicant's arguments filed September 3, 2004 with respect to claims 1, 12, 17, 28, 30 – 32, 34 – 35 and 40 have been fully considered but they are not persuasive.

Applicant arguments regarding the Glasson reference are not persuasive. Applicant states that Glasson makes an automatic determination of the feature type defined by the coordinates based upon contact of the probe, thus differing from the invention, which makes an autonomous determination based on the position of the probe tip. However, it is pointed out, that the Glasson reference enters said automatic change on command based on said probe position as required by

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the claim language. The claim fails to indicate the requirements argued by applicant such as the device entering a measurement mode because the machine chooses autonomously to make a measurement, based upon the features of the shape under measure.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (571)272 -2244. The examiner can normally be reached on 9:00 AM - 6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yaritza Guadalupe-McCall
Patent Examiner
Art Unit 2859
November 29, 2004

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